

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION

FILED

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U.S. DISTRICT COURT  
N.D. OF ALABAMA

JOHNNY BUCKNER,

)

PLAINTIFF,

)

VS.

)

CV94-H-230-E

KENNETH JENKINS, and

)

MARK A. PELZER,

)

DEFENDANTS.

ENTERED

MAY - 5 1997

MEMORANDUM OF DECISION

On March 19, 1997 the court set the two remaining claims in this action for trial on May 28, 1997. The March 19, 1997 order required plaintiff to file a Pretrial Narrative Statement by April 18, 1997 and to serve a copy of the Statement upon counsel for defendants. Plaintiff was expressly advised that "failure to comply with this order within the allotted time will result in the dismissal of this action for want of prosecution." No statement has been filed by plaintiff. On April 30, 1997 defendant's counsel complied with the order by filing a Pretrial Narrative Statement. That statement reflects service of a copy thereof on plaintiff at: Johnny R. Buckner AIS #170365, Easterling Correctional Facility, P. O. Box 10, Clio, Alabama 36017. However, on March 27, 1996 plaintiff advised the court that he was no longer incarcerated and that his new address was: Johnny Buckner, 114 19th Place, Opelika, Alabama 36801. That notice of change of address does not bear a certificate of service on counsel for defendants. On August 20, 1996 the court

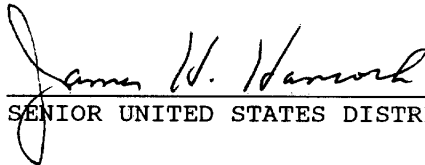
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received from plaintiff a change of address from 114 19th Place to: Johnny R. Buckner, 4423 Lee Road 391, Opelika, AL 36801. That change of address also reflects no proof of service on counsel for defendants. The court's March 19, 1997 order was mailed to Johnny R. Buckner, 4423 Lee Road 391, Opelika, AL 36801 and has not been returned by the Post Office.

Court personnel has this date telephoned counsel for defendants who advised that counsel has not received a copy of the Pretrial Narrative Statement from plaintiff as directed by the March 19, 1997 order.

A separate order dismissing this action for want of prosecution will be entered.

DONE this the 5<sup>th</sup> day of May, 1997.

  
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SENIOR UNITED STATES DISTRICT JUDGE